

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

COURTROOM PROCEEDINGS

The court met in its courtroom at 10:00 A.M. Present: Honorable Nickolas J. Dibiaso, Acting Presiding Justice; Honorable Timothy S. Buckley, Associate Justice; Honorable Dennis A. Cornell, Associate Justice; and Eve Sproule, Court Administrator/Clerk, by Elaine J. Duffy, Supervising Deputy Clerk.

F038919 Shawna E. v. The Superior Court of Merced County; Merced Co. Dept. of Human Services

F038920 Nathan N. v. The Superior Court of Merced County; Merced Co. Dept. of Human Services

Parties stipulate that (1) Cornell, J., the absent assigned justice, participate in the determination of this appeal, and (2) Cornell, J. to listen to the tape recording of oral proceedings upon his return.

Cause called and argued by appellant Shawna E., appearing in propria persona; by appellant Nathan N., also appearing in propria persona and by James Tarhalla, Esq., Deputy County Counsel, counsel for respondent.

Submission deferred until 5:00 p.m. Thursday, November 22, 2001 for Cornell, J. to listen to the tape recording of oral argument.

Court recessed until Thursday, November 15, 2001 at 1:30 P.M.

The court reconvened in its courtroom at 1:30 P.M. Present: Honorable James A. Ardaiz, Presiding Justice; Honorable Nickolas J. Dibiaso, Associate Justice; Honorable Melinda M. Reed, ProTem, Associate Justice; and Eve Sproule, Court Administrator/Clerk, by Elaine J. Duffy, Supervising Deputy Clerk.

F034544 In re the Marriage of Connie and John Cruz

Cause called and argued by appellant John Cruz, appearing in propria persona. Respondent Connie E. Cruz, in propria persona waived oral argument.

Cause ordered submitted.

Court recessed until Friday, November 16, 2001 at 1:30 P.M.

IN THE

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IN AND FOR THE

Fifth Appellate District

F037204 People v. Alvarez-Paz

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

F037204 People v. Alvarez-Paz

The finding that appellant served a section 667.5, subdivision (b) prior separate prison term for his 1998 section 243, subdivision (c) battery conviction in Los Angeles County Superior Court case No. A972171 is ordered stricken. The judgment is reversed to the extent that it is based upon a finding that appellant suffered a prior felony conviction (within the meaning of California's three strikes law) in 1996 in Tulare County Superior Court case No. 38028. The district attorney shall have 30 days after the remittitur is filed in which to give notice of his intent to seek retrial of the prior felony conviction allegation. [Citation] If the district attorney gives such notice, the court shall conduct further proceedings in accordance with this opinion. If the district attorney fails to give such notice, the court shall resentence appellant to the term appropriate for him as a person with "one prior felony conviction that has been pled and proved" (667, subd. (e)(1); 1170.12, subd. (c)(1).) [Citation]

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F035163 People v. Mendoza

The judgment is affirmed. Buckley, Acting P.J.

We concur: Levy, J.; Cornell, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F038759 In re Marriage of Kirschenmann
F039215

Appellant's motion to consolidate the above-entitled cases is granted.

IN THE
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IN AND FOR THE
Fifth Appellate District

F034944 People v. Ramirez, Jr.

The judgment is affirmed. Cornell, J.

We concur: Vartabedian, Acting P.J.; Levy, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F037264 People v. Hernandez

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

F037264 People v. Hernandez

The judgment is modified to state that appellant is entitled to a total of 1,624 days of pre-sentence credit. The trial court is directed to submit an amended abstract of judgment to the Department of Corrections. As so modified, the judgment is affirmed.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]